

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

DUBLIN DIVISION

2022 FEB -3 A 10: 03

THONY BEAUBRUN,

Plaintiff,

v.

GEORGIA DEPARTMENT OF
CORRECTIONS; TIMOTHY C. WARD;
and WARDEN TOMMY BOWEN,

Defendants.

CV 322-002

CLERK
SO. DIST. OF GA.

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed. (Doc. no. 33.) The Magistrate Judge in the Southern District recommended denying without prejudice all motions pending when the case transferred from the Middle District of Georgia and dismissing any potential co-plaintiffs and their claims without prejudice. (See doc. no. 30.) Plaintiff does not object to these recommendations. (See doc. no. 33.)

However, the Magistrate Judge also explained that prior to transfer, no final action had been taken on the recommendation from the Magistrate Judge in the Middle District to dismiss the case in its entirety because of pleading deficiencies or on Plaintiff's motion to amend. (Doc. no. 30, pp. 2-3.) Thus, the Magistrate Judge here recommended Plaintiff be required to file an amended complaint on the form used by incarcerated litigants filing in the Southern District so that Plaintiff could clarify his individual claims and provide the

information required by the Southern District. (Id. at 2-3.) Plaintiff objects to the requirement that he file an amended complaint and requests that his case be permitted to proceed based on his original complaint, after the application of several piecemeal changes. (See doc. no. 33.) Subsequent to his objections, Plaintiff filed a motion to amend in which he requests permission to “removed [sic] all the other parties.” (Doc. no. 34.)

However, Plaintiff may not amend his complaint in a piecemeal manner by submitting separate filings which purport to add or change only certain portions of a prior pleading. See Holland v. Burnette, CV 308-090, 2009 WL 1579507, at *1 (S.D. Ga. June 3, 2009). Moreover, as the Magistrate Judge explained, Plaintiff’s prior filings in the Middle District do not provide the information the Southern District requires on its standard complaint form used by incarcerated litigants. Thus, the Court **OVERRULES** the objection regarding the recommendation that Plaintiff must submit an amended complaint in accordance with the instructions provided in the Report and Recommendation. Nevertheless, as Plaintiff explains COVID-19 restrictions at his current place of incarceration may delay his ability to timely comply with the direction to amend, the Court **GRANTS** Plaintiff thirty, rather than the recommended fourteen, days from the undersigned date to submit the required amended complaint.

Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge, as modified herein, as its opinion and **DISMISSES WITHOUT PREJUDICE** all motions pending at the time of transfer from the Middle District of Georgia. (Doc. nos. 4, 8, 10, 11, 13, 14, 19-22, 24, 25.) As to any prisoners other than Plaintiff who signed the complaint but were not listed in the caption and did not submit a motion to proceed *in forma pauperis*, those individuals and their claims are **DISMISSED WITHOUT PREJUDICE**.

The Court **DIRECTS** the **CLERK** to attach a standard complaint form used by incarcerated litigants in the Southern District, stamped with this case number, to Plaintiff's service copy of this Order. Plaintiff shall have thirty days from the undersigned date to submit an amended complaint in accordance with the pleading instructions in the now-adopted Report and Recommendation.¹ (See doc. no. 30, pp. 3-5.)

If Plaintiff wishes to proceed with this case, he must complete and submit the enclosed complaint form in accordance with the aforementioned instructions. Failure to timely submit the required amended complaint, or failure to inform this Court immediately of any change of address at any time during these proceedings, will be an election by Plaintiff to voluntarily dismiss this case without prejudice.

SO ORDERED this 3rd day of February, 2022, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE

¹The Court **DIRECTS** the **CLERK** to **TERMINATE** the motion to amend. (Doc. no. 34.)